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DDA 76-6160

14 DEC 1976

MEMORANDUM FOR: Director of Central Intelligence

FROM : John F. Blake
Deputy Director for Administration

SUBJECT : Revisions to the Law on Freedom of
Information

Sir:

STATINTL

In response to your request for suggestions on revising the law on freedom of information, I am attaching some comments on this subject which [] put together. Certainly there are other issues in the law worth addressing, but the two biggest headaches we face in responding to the Freedom of Information Act are the time limits imposed on responses and the requirement to handle requests from foreign nationals. If revisions in these two areas alone can be accomplished, they would relieve the administrative burden on the one hand and ensure that CIA is not being harrassed, at least directly, by foreign intelligence services on the other.

John F. Blake

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Attachment: a/s

STATINTL

O/AI/DDA: [] ydc (13 Dec 76)

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SUGGESTIONS FOR REVISIONS TO FOIA

1. CIA would like to emphasize the point that the time limit on FOI responses is not realistic. Security and compartmentation based on "need-to-know" within the Agency necessitate a decentralized records system which cannot be accessed fully within ten days. Thus, in most cases we are not complying with the letter of the law in regard to deadlines. A routine search through one records system may provide leads to one or several others which will delay a final response further. In addition to such internal referrals, the number of documents found in a search will increase the processing time proportionately. There is always the danger of an erosion of security through human error caused in the haste to handle large volumes of material within the time limits. A more realistic deadline might be 45 calendar days, or a graduated scale dependent on the volume of records surfaced.

2. We suggest the Freedom of Information Act be amended to limit requesters to U.S. citizens. Although requests from foreign nationals have not been overwhelming to date, the potential for CIA becoming a worldwide information service exists should foreign journalists and intelligence services decide to use the FOI mechanism. The release of extensive information about foreign organizations or personalities could result in serious liaison problems with local services and raise anxiety among intelligence sources as to the confidentiality and protectability of their relationship with CIA. We have no specific instances to cite, but intelligence officers at all levels are concerned about the potentially harmful effects of freedom of information on our ability to recruit and retain agents. We have had reports of cases where people have declined to assist us for fear such a relationship would be exposed.

3. Congress should consider allowing agencies to charge for the true cost of FOI search and review. In calendar year 1975, CIA spent \$1,392,000 in salaries to process FOI requests but collected fees of approximately \$1,900. In an intelligence organization, the majority of documents are classified, so that detailed review is required to adequately delete sources and

methods information before release. Although an agency may charge specified fees for search time, such monies represent only a fraction of the actual cost of services.

4. The release of information through the litigation process is a genuine concern for which we have no answer. The threat of litigation for failure to release information may conflict with the DCI's statutory obligation to protect intelligence sources and methods. In a recent case, Klaus v. CIA (USDC-DC--Civil Action #76-1274), Judge Gerhard Gesell ruled that because of the court's lack of training or competence to judge the national security implications of release of classified material, the court should rely on the Government affidavits to determine the validity of classification. This was certainly a landmark in CIA's favor, but other cases may not be decided in this manner and could result in a conflict between the two laws.

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Approved For Release 2002/06/05 : CIA-RDP79-00498A000200110044-9

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Approved For Release 2002/06/05 : CIA-RDP79-00498A000200110044-9